

STATE OF ILLINOIS
BEFORE THE ILLINOIS COMMERCE COMMISSION

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Egyptian Telephone Cooperative Association, Inc.)
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)
Petition for Suspension or Modification of Section 251(b)(2) requirements of the Federal Telecommunications Act pursuant to Section 251(f)(2) of said Act; for entry of Interim Order; and for other necessary relief.)
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Docket No. 03-0726

APPLICATION TO HOLD ADDITIONAL HEARINGS

NOW COMES Verizon Wireless, by and through its Counsel, Clark Hill PLC, and pursuant to the Rules of Practice of the Illinois Commerce Commission, 83 Ill. Admin. Code, Section 200.870, and brings this Application for the holding of additional hearings before issuance of a final order in this proceeding. In support of its Application, Verizon Wireless states as follows:

Introduction

1. The underlying proceeding seeks to relieve the Petitioner, a facilities-based incumbent local exchange carrier providing local exchange telecommunications services as defined in Section 13-204 of The Illinois Public Utilities Act (“Act”) subject to the jurisdiction of this Commission, from certain obligations to allow porting of numbers to wireless carriers beginning May 24, 2004. An Interim Order has been issued, and a Proposed Order issued, but no final order has yet been issued in this proceeding.

2. Verizon Wireless was formed as a joint partnership operating the U.S. wireless businesses of Bell Atlantic Corp. and GTE Corp. - now Verizon Communications, Inc. (NYSE:VZ) - and Vodafone (NYSE and LSE: VOD). Verizon Wireless' predecessor companies include Bell Atlantic Mobile, AirTouch Cellular, GTE Wireless Incorporated, PrimeCo Personal Communications, and AirTouch Paging. All wireless carriers making up Verizon Wireless, including Illinois RSA 6 & 7 Limited Partnership, Illinois SMSA Ltd. Partnership, Chicago SMSA Ltd. Partnership and Cybertel Cellular Telephone Company, do business as Verizon Wireless. Verizon Wireless provides Commercial Mobile Radio Service ("CMRS") pursuant to 47 U.S.C. § 332 and Sec.13-214 of the Act. Verizon Wireless has its principal place of business at Bedminster, New Jersey.

3. Pursuant to the FCC's orders¹ and rules regarding number portability, Verizon Wireless has been required to allow customers to port their numbers out and to accept new customers with numbers to be ported in, and Verizon Wireless is compliant with said orders and rules.

4. Verizon Wireless has been porting numbers with local exchange carriers in Illinois since November 2003 and has prepared its sales and customer care forces to offer LNP throughout Illinois beginning on May 24, 2004.

5. If the Proposed Order becomes a final order, Verizon Wireless and its customers will be harmed because Verizon Wireless will not be able to offer LNP in areas served by the

¹ The Orders include, but are not limited to, Verizon Wireless's Petition for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation, Memorandum Opinion and Order, 17 FCC Rcd. 14972 (2002) ("*VZW Forbearance Order*"); Telephone Number Portability, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd. 23697 (2003) ("*Intermodal Porting Order*").

Petitioner, and such services will not be available to the consumers of the State of Illinois residing in Petitioner's service areas.

Reasons For Application

6. The participation by Verizon Wireless in this matter may reasonably be expected to assist in the development of a sound and complete record through the presentation of relevant evidence and argument.

7. In 2003, when this Petition was filed, only five small carriers, including the Petitioner, sought to avoid the LNP obligations. Since the filing of the Petition in this proceeding, and since the entry of the Interim Order in this proceeding on December 17, 2003, some 22 additional carriers ("Additional Petitioners") have filed nearly identical petitions covering significant parts of the State of Illinois, each seeking interim relief as well as a significant delay in the availability of LNP in their respective service areas.² This constitutes a material change in the factual circumstances surrounding the Petition since it was filed.

8. The interim relief issued in 2003 was issued without input from all areas of the industry impacted by Petitioner's request.

9. The Interim Order in this proceeding was issued prior to orders issued in other states denying such relief in other proceedings where a petitioner sought relief under grounds identical to those rejected by the FCC and by other state commissions.³

² See ICC Docket Nos. 04-0180, 04-0181, 04-0182, 04-0183, 04-0184, 04-0185, 04-0189, 04-0193, 04-0194, 04-0195, 04-0196, 04-0197, 04-0198, 04-0199, 04-0200, 04-0206, 04-0228, 04-0236, 04-0238, 04-0239, 04-0240, and 04-0282.

³ See, e.g., *In re applications of Waldron Telephone Company and Ogden Telephone Company*, Michigan Public Service Commission Case Nos. U-13956 and U-13958, February 12, 2004, and

10. Significant hearings will be held and records developed regarding claims by Additional Petitioners in support of their requests for relief, which will advise and provide the Commission with further information to allow it to make an informed decision. In fact, Additional Petitioners have tried to link Petitioner's case with theirs by arguing that the Commission's decision granting interim relief to Petitioner should be consistently applied in favor of Additional Petitioners as well. Therefore, creating a precedent in this proceeding without the benefit of the record that can be made in this proceeding (and in the related proceedings brought by Additional Petitioners) would be prejudicial and would not be in the public interest.

Brief Statement of Proposed Additional Evidence

11. The FCC first ordered wireline carriers to implement LNP in 1996, including implementing LNP with wireless carriers.⁴ In fact, one of the main drivers for requiring wireless carriers to participate in LNP was the FCC's pro-competitive and pro-consumer stance that wireline to wireless porting ("intermodal porting") would enhance competition in the local exchange marketplace, thereby benefiting consumers.⁵

12. The FCC confirmed the obligation of local exchange carriers located outside of the top 100 MSAs to provide wireline to wireless LNP by May 24, 2004, in the November 10,

Petition of Multiple Communications Companies for a Suspension of Wireline-to-Wireline Number Portability Obligations, New York Public Service Commission, Case 03-C-1508, April 19, 2004.

⁴ Telephone Number Portability, *First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd. 8352 (1996) ("*First Report and Order*").

⁵ *Id.*, at 8437, ¶¶ 160-161.

2003, *Wireline-Wireless Porting Order*.⁶ At that time, the imminence of the (already known) intermodal porting obligation could not be doubted.

13. Verizon Wireless will present evidence that wireline carriers had sufficient notice and time to plan for the implementation of portability, given multiple orders dating back to 1996 -- and that carriers' lack of planning and foresight do not excuse compliance with the May 24, 2004 deadline.

14. Verizon Wireless will provide evidence that the technology necessary for LNP has been and is available, and that it is in no way technically infeasible for Petitioner to implement LNP. A requirement is not technically infeasible merely because the party requesting suspension failed to implement the requirement on a timely basis or because implementation of the necessary technology is costly.

15. Verizon Wireless will provide evidence that delays in LNP will impact consumers. Customers will seek to port their numbers in May and will be turned away. Verizon Wireless has first-hand experiences with customers who come into stores expecting to port their numbers, but are thwarted by the current patchwork of where and when LNP is available. The result is customer confusion and anger.

16. Verizon Wireless will provide evidence that, not only does a piecemeal approach to LNP impact consumers, it also makes it exceedingly difficult for compliant carriers like Verizon Wireless to develop automated porting tools and to educate customer care and sales

⁶ See Telephone Number Portability, *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, 18 FCC Rcd. 23697, ¶ 29 (2003) ("*Wireline-Wireless Porting Order*").

forces about the porting exceptions. Granting a patchwork of requests for suspensions is a prescription for customer confusion and porting errors.

17. Petitioner's ultimate requested relief, by its terms, initiates state proceedings that are an improper collateral attack on the FCC's rules. The application raises issues addressed by the FCC and which are outlined in Section 251(f)(2) of the Act: 1) economic impact on the Applicant's existing customers; 2) economic burden to the Applicant; 3) technical feasibility of wireline to wireless LNP; and 4) the public interest.⁷

Explanation of Why Evidence Was Not Previously Adduced

18. Verizon Wireless did not initially intervene to contest Petitioner's request for relief because the effects on customers and Verizon Wireless' business operations from LNP waivers were not fully known at that time. The FCC granted temporary relief to "2% carriers" operating within the top 100 MSAs in January 2004, after the November 2003 date by which such carriers had been required to offer LNP. This mid-course change created confusion in Verizon Wireless stores, amongst customers and sales representatives, as the boundary of where LNP would and would not be available became blurred. Having experienced the difficulties associated with the FCC's waivers, Verizon Wireless determined that it would seek to oppose further waivers of carriers in all areas in Illinois where Verizon Wireless offers service to customers. Verizon Wireless expects that LEC customers in such areas will seek to port numbers to Verizon Wireless after May 24, 2004 and believes the Illinois Commission should not relieve LEC carriers of the obligation to facilitate such port requests, and certainly should consider all available evidence of possible consumer and competitive harm before granting the lengthy suspension requested by Petitioner.

⁷ 47 U.S.C. § 251 (f)(2).

19. Verizon Wireless' decision to intervene at this time is also necessitated by Additional Petitioners' arguments in the 22 additional docketed proceedings (See footnote 2, *supra*), seeking similar favorable rulings granting relief. Additional Petitioners have justified delaying their own filings based on the filings of Petitioner's request for relief under Section 251(f)(2) (and the requests of four other petitioners).⁸ If Petitioner's request for relief (or any by the four other petitioners) and forthcoming orders, will have any bearing, legally or factually, on the outcome of Additional Petitioner's requests for relief presently before the Commission, in which Verizon Wireless has intervened, Verizon Wireless should be given an opportunity to provide factual and legal opposition to the instant Petitioner's request for relief.

⁸ See ICC Docket Nos. 03-0730, 03-0731, 03-0732, and 03-0733.

Conclusion And Prayer For Relief

WHEREFORE, Verizon Wireless respectfully requests and prays that the Illinois Commerce Commission grant Verizon Wireless' Application to Hold Additional Hearings, decline to issue the Proposed Order, and dismiss the Petition.

Respectfully submitted,

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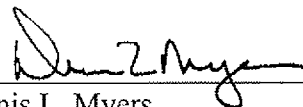
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VERIFICATION

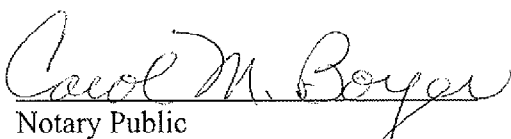
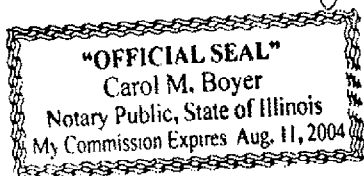
STATE OF ILLINOIS)
)
COUNTY OF COOK)

Dennis L. Myers, being first duly sworn upon oath, deposes and states that he is Vice President and Area General Counsel, Midwest Area, for Verizon Wireless; and that he has read the foregoing Application To Hold Additional Hearings of Verizon Wireless, ICC Docket No. 03-0726, and knows the contents thereof; and that to the best of his knowledge, information and belief, based upon reasonable inquiry, that said contents are true and correct.



Dennis L. Myers
Vice President and Area General Counsel,
Midwest Area
Verizon Wireless

Subscribed and sworn to before me
this 29th day of April, 2004.


Notary Public

STATE OF ILLINOIS
BEFORE THE ILLINOIS COMMERCE COMMISSION

* * * * *

EGYPTIAN TELEPHONE COOPERATIVE)
ASSOCIATION, INC.)

Petition for Suspension or Modification of)
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251(f)(2) of said Act; for entry of Interim Order;))
and for other necessary relief.

Docket No. 03-0726

NOTICE OF FILING

To: Service List Attached

You are hereby notified that I have, this 30th day of April, 2004 filed with the Chief Clerk of the Illinois Commerce Commission an Application to Hold Additional Hearings, in the above-captioned proceeding, via the electronic e-docket system on April 30, 2004.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Application to Hold Additional Hearings, in the above-captioned proceeding, were served upon the parties on the attached service list via United States Postal Service First-Class Mail on April 30, 2004.

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